THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21237 OF 2006

DATED 13th OCTOBER, 2006

BETWEEN

Sharif Bee and others

… Petitioners

and

The District Collector, Mahaboobnagar and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.21237 OF 2006

ORDER:

The petitioners are residents of Penjerla village of Kothur Mandal in Mahaboobnagar District. They are statedly co-owners of land admeasuring Acs.4.04 guntas in survey No.234 situated in the said village. The land was acquired in 1976 for providing house sites to persons belonging to the scheduled castes. They allege that the beneficiaries of the assignment of house site pattas made representation to the Government that the land is not suitable for houses. The petitioners also made a representation to reconvey the land. They allege that on13.03.1985, the Government directed the District Collector to reconvey the land to the petitioners, in vain. The petitioners then filed W.P.No.6543 of 1985 for a writ of Mandamus directing the District Collector and Revenue Divisional Officer, Kothur to reconvey the land. This Court disposed of the same on 26.03.1986 directing to reconvey the land to the petitioners within eight weeks therefrom. The petitioners again filed W.P.No.6315 of 1991 for similar direction, which was dismissed for default on 20.07.2001. About fifteen years thereafter, the petitioners filed present writ petition seeking a writ of Mandamus directing the first respondent to put the petitioners in possession of the land in survey No.234 or in the alternative pass appropriate orders for enforcement of the order in W.P.No.6543 of 1985.

Learned counsel for the petitioners vehemently contends that when the land acquired by the petitioners is not put to public use, they are entitled for reconveyance of the same. Alternatively, he submits that when once way back in March, 1986, this Court passed orders directing reconveyance, the respondents ought to have implemented the same. **Per contra**, learned Assistant Government Pleader for Revenue submits that when this Court passed orders in 1986, the law was not settled. But, now it is settled that no person, whose land is acquired under the Land Acquisition Act, 1894 (the Act, for brevity), is entitled for reconveyance of the land even when the land is not put to public use. He placed strong reliance on the decision of this Court in

Koppula Narasaiah v Government of Andhra Pradesh[1] as well as decisions of the Supreme Court in **Northern Indian Glass Industries v Jaswant Singh**[2] and **State of Andhra Pradesh v Syed Akbar**[3].

The undisputed facts of this case are: the land of the petitioners was acquired for public purpose; they were paid compensation as per the Act; the land acquired was not utilised for the purpose for which it was acquired; when the petitioners approached the Government, the Government directed reconveyance of the land and when the reconveyance was not done, the petitioners approached this Court in 1986 and obtained order in their favour. In this background, can the petitioners enforce any right in this writ petition?

A person, whose land is acquired has no enforceable right to seek reconveyance. This principle is no more *res integra.* The Courts have interpreted the provisions of the Act especially Sections 23, 23(1A) and 30 of the Act and held that no land owner is entitled for reconveyance of the land even if the land is not utilised or only partly utilised for the purpose for which it is acquired. In such an event, the property having been vested in the State absolutely, if for any reason, the land is to be disposed of, the same can be done only by conducting public auction. In **Koppula Narasaiah** (supra), this Court after referring to the decisions of the Supreme Court in **State of Kerala v Bhaskaran Pillai**[4], **C.Padma v Deputy Secretary to Government of Tamil Nadu**[5], **State of Punjab v Sadhu Ram**[6] and **Chandragauda Ramagonda Patil v State of Maharashtra**[7] laid down that if any land acquired for public purpose remains unutilised, the same can be utilised partly or fully for any public purpose and that the land owner has no right or legitimate expectation to seek reconveyance of the land notwithstanding any agreement to that effect. It was also held that if the Government decides to dispose of the land which is no more required for public purpose, they may do so by conducting public auction or by calling for tenders so as to get highest price in public interest. In **Northern India Glass Industries** (supra), Supreme Court categorically held that when the land is not used for the purpose for which it was acquired, it was open to the State Government to take action, but the same does not confer any right on the land owners to ask for restitution of the land. Therefore, the petitioners cannot enforce any right in this writ petition. The petitioners cannot rely on the orders passed by this Court earlier in W.P.No.6543 of 1985. When the law is now decided by Supreme Court, which is binding on all authorities, it would not be proper for this

Court to compel the respondents 1 and 2 to reconvey the land and such reconveyance would be contrary to the law laid down by the Supreme Court in the decisions cited hereinabove.

The writ petition, therefore, is dismissed. No costs.

(V.V.S.RAO,J)

13.10.2006.
pln

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[1] 2000 (6) ALT 337 = 2000 (6) ALD 299
[2] (2003) 1 SCC 335
[3] (2005) 1 SCC 558
[4] AIR 1997 SC 2703
[5] (1997) 2 SCC 627
[6] (1997) 9 SCC 544
[7] (1996) 6 SCC 405